

## SENATE BILL NO. 220

INTRODUCED BY J. BOHLINGER, ELLINGSON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A REFUNDABLE EARNED INCOME CREDIT BASED ON A PERCENTAGE OF THE FEDERAL EARNED INCOME CREDIT FOR QUALIFIED FAIM RECIPIENTS; PROVIDING FOR A PHASED-IN INCREASE OF THE PERCENTAGE AMOUNT OF THE CREDIT ALLOWED; REQUIRING THE DEPARTMENT OF ~~REVENUE~~ PUBLIC HEALTH AND HUMAN SERVICES TO NOTIFY TAXPAYERS OF THEIR POTENTIAL ELIGIBILITY FOR THE CREDIT; REQUIRING THE DEPARTMENT OF REVENUE TO REPORT STATISTICAL INFORMATION ABOUT THE CREDIT TO THE MONTANA LEGISLATURE AND TO THE GOVERNOR; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, ~~AND A~~ RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Earned income tax credit.** (1) There is allowed as a credit against the tax imposed by 15-30-103 the applicable percentage of the credit allowed for the federal earned income credit for which a QUALIFIED resident individual taxpayer is eligible for the tax year under section 32 of the Internal Revenue Code (26 U.S.C. 32).

(2) TO QUALIFY FOR A CREDIT UNDER THIS SECTION, THE TAXPAYER MUST, ON THE LAST DAY OF THE TAX YEAR, HAVE BEEN AN ELIGIBLE FAIM RECIPIENT OF CASH ASSISTANCE UNDER TITLE 53, CHAPTER 4, PART 6.

~~(2)(3) (A)~~ The amount of the credit allowed under subsection (1) is ~~determined according to the following schedule:~~

~~—— (a)(i), for tax years beginning after December 31, 2000, the amount of the credit is 10% THE PERCENT 25% 15% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code (26 U.S.C. 32) COMPUTED BY THE DEPARTMENT PURSUANT TO SUBSECTION (2)(B);~~

~~—— (b)(ii) for tax years beginning after December 31, 2002, the amount of the credit is 15% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code (26 U.S.C. 32); and~~

~~—— (c)(iii) for tax years beginning after December 31, 2004, the amount of the credit is 20% of the amount of the credit determined for the tax year under section 32 of the Internal Revenue Code (26 U.S.C.~~

1 32).

2 ~~\_\_\_\_\_ (b) THE DEPARTMENT SHALL ESTABLISH THE RATE FOR THE CREDIT AUTHORIZED IN SUBSECTION (2)(A) EACH YEAR~~  
3 ~~BY RULE. THE RATE, DETERMINED IN COOPERATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, WILL~~  
4 ~~SET A CREDIT PERCENTAGE RATE THAT, WHEN TAKEN BY TAXPAYERS, WILL RESULT IN A DOLLAR AMOUNT OF CREDIT THAT~~  
5 ~~WILL EQUAL, AS CLOSELY AS POSSIBLE, THE AMOUNT THAT THE STATE IS EXPECTED TO RECEIVE FROM THE TEMPORARY~~  
6 ~~ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT.~~

7 (3)(4) Except for married taxpayers living apart who are treated as single under section 7703(b)  
8 of the Internal Revenue Code (26 U.S.C. 7703(b)), the credit is not allowed to married taxpayers if the  
9 husband and wife report their income on separate tax returns.

10 (4)(5) In the case of married taxpayers filing separately on the same return, the tax credit allowed  
11 under this section may be applied against the tax of either the husband or the wife or divided between  
12 them as they may elect.

13 (5)(6) The credit is not allowed for temporary residents or nonresidents of the state.

14 (6)(7) The taxpayer is entitled to a refund equal to the amount by which the credit exceeds the  
15 taxpayer's tax liability or, if the taxpayer has no tax liability, a refund equal to the amount of the credit.

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17 NEW SECTION. **Section 2. Notification of availability of earned income credit.** The department  
18 ~~OF PUBLIC HEALTH AND HUMAN SERVICES shall periodically, but not less than every 3 years,~~ make efforts to  
19 inform taxpayers that they may be eligible to receive the credit allowed under [section 1]. ~~In making a~~  
20 ~~determination of whether a taxpayer may be eligible for the credit, the department shall use data as may~~  
21 ~~be appropriate and available, including but not limited to data from the U.S. department of the treasury,~~  
22 ~~the internal revenue service, and Montana income tax returns for previous tax years.~~

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24 NEW SECTION. **Section 3. Report on earned income credit.** (1) The department shall report to  
25 the revenue and taxation interim committee at least once each year the number of taxpayers claiming the  
26 credit under [section 1] and the total credit claimed. The report must also include but is not limited to  
27 information about the average credit claimed and the number of credits and the average credit claimed by  
28 taxpayers in each county.

29 (2) The department shall also report the information required under subsection (1) to the Montana  
30 legislature and the governor during each regular session of the legislature.

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2 NEW SECTION. SECTION 4. ~~FUND TRANSFER~~ PAYMENT OF FEDERAL FUNDS. EACH YEAR, THE DEPARTMENT  
3 OF PUBLIC HEALTH AND HUMAN SERVICES SHALL TRANSFER PAY, TO THE EXTENT PERMITTED UNDER FEDERAL LAW, FROM  
4 THE TEMPORARY ASSISTANCE TO NEEDY FAMILIES BLOCK GRANT RECEIVED AS FEDERAL SPECIAL REVENUE TO THE GENERAL  
5 FUND THE AMOUNT NECESSARY TO PAY THE REFUNDABLE PORTION OF THE EARNED INCOME CREDIT ALLOWED IN [SECTION  
6 1].

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8 NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as  
9 an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply  
10 to [section 1].

11 (2) [Sections 2 and 3] are intended to be codified as an integral part of Title 15, chapter 1, part  
12 2, and the provisions of Title 15, chapter 1, part 2, apply to [sections 2 and 3].

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14 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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16 NEW SECTION. Section 7. Retroactive applicability. [This act] applies retroactively, within the  
17 meaning of 1-2-109, to tax years beginning after December 31, 2000.

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19 NEW SECTION. SECTION 8. TERMINATION. [THIS ACT] TERMINATES DECEMBER 31, 2002.

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